

Towers or Poles will be handled as set forth in a separate service agreement between FPL and the Licensee.

2.5 Reservation of Distribution Pole Capacity by Florida Power & Light Company.

Each Licensee Attachment will not be allowed to utilize more than 7% of the distribution Pole Capacity unless specifically authorized by FPL. A Licensee's Attachment may only exceed 7% of the Pole Capacity under the following conditions. One, FPL has authorized the Licensee to exceed 7% of the Pole Capacity. Two, the Pole Capacity of the Pole, as determined by FPL standards and the guidelines within the National Electrical Safety Code ("NESC"), is not compromised. Three, Licensee must acknowledge it is utilizing reserved Pole Capacity. Four, Licensee shall vacate said space within sixty (60) days when FPL notifies in writing that it is reclaiming the reserved capacity. Five, if the Licensee requests FPL to increase the Capacity of the Pole in order to stay attached, FPL, in the sole judgement of FPL, will determine if the increase is possible based on reasons of safety, reliability, generally applicable engineering purposes and FPL's ability to maintain the requested facility. Six, Licensee must notify FPL in time for construction to be completed within the above referenced sixty (60) day time period, pay FPL the Make-Ready Cost prior to construction and assume responsibility for reimbursing other Licensees forced to relocate or modify their facilities on the same Pole. Seven, if any facilities permitted on the Pole in reserved capacity are not removed after sixty (60) days, FPL may, at its sole option, remove or relocate said facilities at the expense of the Licensee.

Transmission Towers or Poles will be addressed on a case-by-case basis at the time of application.

2.6 Florida Power & Light Company Permit. After inspection and prior to attaching to any FPL Pole or Tower, the Licensee shall apply for and receive a written permit in the form of Exhibit B for distribution Poles or for transmission Poles with underbuilt electric distribution Wirelines. The Licensee shall attach its windloading calculations to its permit application. Permits for attachments to other Transmission Towers or Poles will be handled as set forth in a separate service agreement between FPL and the Licensee. FPL may deny a permit for Attachment when in the sole judgment of FPL such attachment will interfere with FPL's system integrity or service requirements, including economic and safety requirements. No Attachments shall be permitted except as provided in this Article II.

ARTICLE III - ATTACHMENT AND MAINTENANCE

- 3.1 Standards for Attachments of OPGW and Wirelines to Transmissions Poles without Distribution Underbuilt.
- a. FPL Work. FPL shall perform all work on Licensee's System which is attached to FPL Towers and transmission Poles which have no distribution underbuilt. FPL's responsibilities and compensation for performing such attachment related work on Licensee's System shall be set forth in a separate service agreement.
 - b. NESC and FPL Requirements. All FPL attachment related work on Licensee's System shall be performed in accordance with the requirements and specifications of the National Electrical Safety Code, latest edition, or any applicable amendments, revisions, or subsequent editions of the NESC as well as any additional requirements of FPL.
- 3.2 Attachments to Distribution Poles and Transmission Poles with Distribution Underbuilt. Licensee, at its own expense, shall make and maintain its Attachments to FPL distribution Poles or FPL transmission Poles with distribution underbuilt in safe condition and in thorough repair, both in a manner suitable to FPL and so that the Attachments do not conflict with the use of Poles by FPL, Joint Users or other licensees. The Licensee shall exercise special precautions to avoid damage to Facilities of FPL and to attachments of others supported on the FPL Poles and shall immediately report any damage to FPL and to any other owners of damaged facilities or attachments.
- 3.3 Licensee's Duty to Warn. Licensee agrees to warn its employees, agents, contractors, and invitees of the fact that the electrical facilities and appurtenances installed or to be installed by FPL are of high voltage electricity and to inform such persons as to safety and precautionary measures which he or she must use when working on or near FPL Poles and other FPL Facilities.
- 3.4 Standards for Attachments to Distribution Poles and Transmission Poles with Distribution Underbuilt.
- a. NESC and FPL Requirements. The Licensee agrees to install, construct and maintain its Attachments on distribution Poles or transmission Poles with distribution underbuilt wirelines with its own licensed electrician or by a licensed electrical contractor paid under a contract executed by the Licensee all in accordance with the requirements and specifications of the

National Electrical Safety Code, latest edition, or any applicable amendments, revisions, or subsequent editions of the NESC as well as any additional construction requirements of FPL. If any Licensee Attachments are found to have been installed in violation of the NESC or FPL requirements, the Licensee shall make all corrections at the Licensee's expense, including Rearrangement of Facilities and of attachments of others.

- b. Installation of Attachments. The Licensee agrees and understands that the installation, construction and maintenance of Attachments within fifteen feet (15') of FPL's primary conductors (defined herein as all conductors with voltage potentials exceeding 750V) shall be subject to the approval of FPL within its sole and absolute discretion. After the date of this Agreement, the Licensee's Attachment of Licensee's Wirelines, on each Pole shall be restricted to one foot (1') of Pole space in the communication zone. If Licensee fails to install its Attachment at the lowest point on the Pole as required in Exhibit B and if FPL should require the Licensee to lower its facilities for FPL needs, FPL will not be required to reimburse the Licensee for its modification expense. The one foot (1') space allocation shall extend six inches (6") above and below the Licensee's main wireline attachment point. A schematic drawing is included in Exhibit B. Licensee shall not be required to relocate or modify any of Licensee's System which Licensee purchased from FPL and which was attached to the FPL Facilities at the time Licensee acquired an interest in the OPGW or wireline Attachment, except as provided in sections 3.5, 3.6, 4.4 and 4.5 herein.
- c. Other Requirements. All installation work will be done in accordance with local rules, regulations, statutes and ordinances. All Attachments shall conform to requirements of and be subject to rights under any other joint use or attachment agreements now in effect between FPL and other Pole users. The Licensee shall insure compliance with clearances from facilities of all other licensees attached to the FPL Pole and obtain consent from such users, as necessary. The Licensee agrees to participate in FPL's notification and scheduling processes for Pole transfers and permitting of attachments.
- d. Marking of Cable. The Licensee agrees to install or mark Licensee's Wirelines in a manner acceptable to FPL and consistent with guidelines adopted by the Florida Utility Coordinating Committee ("FUCC"), so that it can be easily identified from the ground and from other similar cables or wirelines on the Pole. Notwithstanding the FUCC guidelines above, an

identification tag shall be installed at every first, fifth, last and street crossing mainline Attachment.

3.5 Rearrangement, Transfer and Intermediate Pole Attachment of Licensee's System on Distribution Poles and Transmission Poles with Distribution Underbuilt.

- a. Timing. When it is necessary for the Licensee to Rearrange its Attachment on an existing Pole or Tower, Transfer its Attachment to a replacement Pole or Tower or attach to an intermediate Pole, the Licensee will move, Transfer or attach its Attachment as required within forty-five (45) days of notification. The Licensee will participate in FPL's notification process and conform to FPL's scheduling in order to accomplish this.
- b. Rearrangement, Transfers, or Intermediate Pole Attachment by FPL. If FPL and Licensee enter into a letter of agreement adopting this section 3.5(b), Rearrangement, Transfer or Intermediate Pole Attachment of Licensee's System, or any part thereof, may be performed by FPL or its contractor when and at the time that FPL relocates its Facilities, replaces an existing Tower, Pole or installs an intermediate Pole within an existing Pole line used by the Licensee. All hardware, cable, material and equipment required for the Rearrangement or Transfer of the System, or part thereof, shall be provided by the Licensee. The Rearrangement shall be at the expense of the Licensee as stated in Article IV. Except for such work on the OPGW or Licensee's System attached to transmission Poles without distribution underbuilt which will be performed by FPL, performance of such work shall be at the sole discretion of FPL and based on NESC and additional requirements of FPL.
- c. Rearrangement or Transfer by Licensee. If FPL and Licensee have entered into a letter of agreement adopting section 3.5(b) above, and if FPL decides not to Rearrange or Transfer the System or if no letter agreement has been entered into, then the Licensee, subject to Article IV, at its own expense shall Rearrange or remove its System placed on any Pole or Pole line or Tower, transfer it to substituted Poles, or Towers, relocate it, or perform any other work in connection with Licensee's System that may be required by FPL. All Rearrangement work or Transfer work shall be completed (a) within ten (10) working days after notice from FPL that FPL has removed its facilities from a Pole or Tower which has to be relocated as part of a road project or other Relocation required by an outside party, or (b)

within thirty (30) working days after notice from FPL for other projects involving Rearrangement or Transfer.

- d. Failure of Licensee to Rearrange or Transfer; Emergency Situations. Provided, however, and whether or not the letter agreement has been entered into by FPL and Licensee, after thirty (30) days notice from FPL, if Licensee fails to rearrange or Transfer the System, or at any time without notice in cases of emergency, FPL may, in the sole option of FPL, Rearrange the System, Transfer it to substituted Poles, relocate it or perform any other work in connection with Licensee's System that may be required in the maintenance, replacement, removal or relocation of FPL Poles, the Facilities or attachments thereon or which may be placed thereon, or for the service needs of FPL, and the Licensee shall, on written demand, reimburse FPL for the expense thereby incurred. Nothing in this paragraph shall impose any duty on FPL or relieve the Licensee from maintaining adequate work forces readily at hand to handle the Rearrangement, repair, service and maintenance of the System where the condition of the System is hindering FPL's operations or from liability for failure to timely remove its Attachment from FPL Poles or from its obligations under Article VI, section 6.2 of this Agreement.

3.6 Rearrangement, Transfer and Intermediate Pole Attachment of Licensee's System on Transmission Towers and Poles without Distribution Underbuilt.

- a. Timing. When it is necessary for FPL to Rearrange Licensee's Attachment on an existing Pole or Tower, Transfer its Attachment to a replacement Pole or Tower or attach to an intermediate Pole or Tower, the Licensee shall perform all of its obligations under the separate service agreement to allow FPL to move, Transfer or attach its Attachment as required within forty-five (45) days of notification. The Licensee will participate in FPL's notification process and conform to FPL's scheduling in order to accomplish this.
- b. Failure of Licensee to Meet its Obligations to Facilitate the Rearrangement or Transfer by FPL; Emergency Situations. If after thirty (30) days notice from FPL, Licensee fails to meet its obligations under the separate service agreement to facilitate FPL's Rearrangement or Transfer of Licensee's System, or at any time without notice in cases of emergency, FPL at the sole option of FPL, may Rearrange the System, Transfer it to substituted Poles, relocate it or perform any other work in connection with Licensee's System that may be required in the

maintenance, replacement, removal or relocation of FPL Poles, the Facilities or attachments thereon or which may be placed thereon, or for the service needs of FPL, and the Licensee on written demand shall reimburse FPL for the expense thereby incurred. Nothing in this paragraph shall impose any duty on FPL or relieve the Licensee from maintaining adequate work forces readily at hand to handle the Licensee's obligations under the separate service agreement where the condition of the System is hindering FPL's operations or from liability for failure to allow FPL to perform the timely removal of its attachment from FPL Poles or Towers or from its obligations under Article VI, section 6.2 of this Agreement.

3. 7 Licensee's Permits. The Licensee, at its own expense, shall obtain all necessary permits or authorization from local, state and federal agencies and property owners to attach Licensee's System, or any part thereof, to FPL Poles or Towers.

**ARTICLE IV - MAKE-READY COSTS, ATTACHMENT AND
OTHER FEES AND BILLING**

4.1 Make-Ready Costs for New Attachments.

- a. Estimate for Make-Ready Work. If Make-Ready Work is necessary to accommodate the System on any FPL Pole or Tower, FPL or FPL's contractor will provide the Licensee with an estimate of the cost of the Make-Ready Work. The estimate shall include the increased cost of larger or stronger Poles or Towers, remaining life value of poles removed, cost of removal less any salvage recovery and the direct and indirect costs of transferring FPL's Facilities from the old to the new Poles or Towers less any credit for Betterment. If the Licensee still desires to make the Attachments, it shall return Exhibit B marked to so indicate, together with an advance payment for the entire estimated cost of the Make-Ready Work.
- b. Reimbursement for Make-Ready Work. When the Licensee's Attachments can be accommodated on existing Poles or Towers of FPL by Rearranging FPL's Facilities or attachments of others thereon, the Licensee will compensate FPL and other Licensees, attachees, or Joint Users, if any, for the direct and indirect costs incurred in completing such Make-Ready or Rearrangements including any Rearrangement to FPL Facilities to conform with NESC requirements which Rearrangement was necessitated by Licensee's Attachment.

- c. Additional Support. Any strengthening of Poles or Towers (e.g., guying) required to accommodate the Licensee's Attachments to Poles or Towers shall be made at the expense of the Licensee and to the satisfaction of FPL. The Licensee shall not set intermediate Poles under or in close proximity to FPL's Facilities. The Licensee, however, may request FPL to set such intermediate Poles as the Licensee may desire, and FPL shall have the option to accept or reject such request. If such request is granted, the Licensee shall reimburse FPL for all direct and indirect costs associated with installing and attaching to such Pole or Poles. FPL shall perform such work on the Towers and transmission Poles with no distribution underbuilt.

4.2 Attachment Fees.

- a. Annual Attachment Fee. Licensee shall pay FPL an annual Attachment fee in accordance with applicable rules and regulation. Subject to annual adjustment as set forth in (b) below, the annual telecommunications Attachment fees effective on January 1, 1999 are as follows:

- (i) \$19.02 for each distribution Pole per year;
- (ii) \$149.98 for each transmission Pole per year;
- (iii) \$337.46 for each Tower per year.

The annual rate shall apply to all Attachments existing as of the effective date of that rate and all new Attachments made during that year regardless of the date of Attachment. Licensee expressly acknowledges and agrees that the above rates are for the attachment of facilities providing telecommunications services. Upon entry of a final judgment by a court of competent jurisdiction holding that services other than cable television or telecommunications services are not subject to a regulated Pole Attachment rate, Licensee shall be charged a non-discriminatory market rate for the Attachment of such other services, effective as of the date of such final order.

- b. Annual Billing. FPL shall bill annually in advance, in accordance with applicable rules and regulations, a Pole Attachment fee times the number of Attachments on or about June 1st of each year. At this time, FPL will also bill in arrears for all new Attachments made in the previous year times the previous year's Pole Attachment fee. The payment of Attachment fee hereunder shall include such prorated amount as may be due for the increased number of Attachments or change in use to FPL Poles or Towers since the previous billing date. Payment shall be made within thirty-five (35)

days of the date of invoice and under the terms and conditions provided in Article IV, section 4.7.

- c. Fee Adjustment. An Attachment or change in use of Attachment to any FPL Pole or Tower without notification of Attachment or change in use or FPL's authorization shall be deemed to have been made on the effective date of this Agreement or the date of the last survey, whichever is later. Payment shall be made within thirty-five (35) days of the date of invoice and under the terms and conditions provided in Article IV, section 4.7. FPL's acceptance of payment for an unauthorized Attachment shall not constitute a waiver of any other rights or remedies under this Agreement or at law.
- d. Unauthorized Attachment Fee and Removal. Licensee shall pay FPL an Unauthorized Attachment Fee in the amount of 2 and 1/2 times the Pole Attachment rate to distribution Poles and 1 and 1/2 times the Pole Attachment rate to Transmission Towers or Poles for the year in which the Unauthorized Attachment was discovered. This Unauthorized license fee shall be paid from the date of discovery back to the date of the last physical survey for any Attachment to FPL Poles or Towers. If an Unauthorized Attachment is identified by survey, the "last survey" shall mean the survey immediately prior to the survey which identified the Unauthorized Attachment. FPL's acceptance of the payment of the Unauthorized Attachment fee or consent to waive payment of all or a part of the Unauthorized Attachment fee shall not constitute a waiver of any of FPL's other rights or remedies under this Agreement or at law. Licensee shall have the burden of proving that an Attachment is an authorized Attachment by providing FPL with a copy of the FPL Attachment Permit. Any unauthorized Attachment to a distribution Pole shall be removed at the discretion of FPL and at the sole cost of Licensee. **Any unauthorized Attachment to a transmission Pole without distribution underbuilt or to a Tower shall be immediately removed by FPL at the sole cost of Licensee and with no liability or consequences therefore accruing to FPL.**

4.3 Transfer and Intermediate Pole Attachment Fees.

- a. Distribution Transfer Fee. Upon completion of the Transfer or Intermediate Pole Attachment for Attachments to distribution Poles or to transmission Poles with distribution underbuilt, Licensee shall pay FPL a fee for each Attachment of Licensee made by FPL or its contractors. The fee for such work performed in the 1999 calendar year shall be \$50.00 per Pole.

- b. Tower and Transmission Pole with no Distribution Underbuilt Transfer Fee. The Licensee shall reimburse FPL for transferring Attachments to Towers and transmission Poles with no distribution underbuilt as set forth in the separate service agreement.
- c. Change in Fee. For subsequent years, the Transfer or Intermediate Pole Attachment fee will be adjusted to reflect any change in all direct and indirect costs of FPL associated with performing such work. FPL shall notify the Licensee in writing no less than sixty (60) days prior to implementation of any change in the fee for subsequent years. Licensee shall have a right to audit records associated with such costs during that sixty (60) day period and at a time acceptable to FPL.

4.4 Rearrangement at Licensee's Cost for Distribution and Transmission Poles with Distribution Underbuilt. If FPL rearranges or relocates its Pole or Pole line or changes the existing pole line alignment and as a consequence thereof rearranges or relocates all or part of the Licensee's System to FPL's relocated Pole line, the fee for Transfer does not apply and the Licensee shall pay the direct and indirect costs of such Rearrangement of the Licensee's System. If the Rearrangement is necessitated by a third party that is not considered an attaching entity and the Rearrangement is not reimbursable by such third party, each Licensee is responsible for rearranging its own facilities attached to distribution Poles or transmission Poles with distribution underbuilt at its own expense. If such Rearrangement is reimbursable by the third party, each Licensee is responsible for dealing directly with and obtaining its own reimbursement from such third party. Additionally, each Licensee is responsible for coordinating the relocation of its Attachments with the relocation schedule of the third party. FPL will not be responsible for delay claims caused by failure of Licensee to meet the relocation schedule of a third party. Payment for Rearrangement work will be made by the Licensee as stated in Article IV, sections 4.5 and 4.6 below.

4.5 Rearrangement at Licensee's Cost for Towers and Transmission Poles without Distribution Underbuilt. The Licensee shall reimburse FPL for transferring Attachments to Towers and transmission Poles with no distribution underbuilt as set forth in the separate service agreement.

4.6 Billing.

- a. Make-Ready Work and Rearrangement Work. Upon completion of all required work by FPL or other attachees, the Licensee shall reimburse FPL

or other attachees for the direct and indirect costs incurred in transferring, rearranging or relocating said Facilities or Attachments of the Licensee or attachments of others. Payment shall be made within thirty-five (35) days of the date of invoice and under the terms and conditions provided in Article IV, section 4.7, below.

- b. Transfer or Intermediate Pole Work. Upon completion of the Transfer or Intermediate Pole Attachment work by FPL, FPL shall present Licensee with an invoice for \$50 times the number of Attachments plus any materials cost. Upon completion of the Rearrangement, FPL shall furnish the Licensee with a final and complete billing of all costs incurred in the Rearrangement.
- c. Inspections, surveys, other charges. In addition to the above changes, FPL shall bill the Licensee for the direct and indirect costs incurred for inspections, surveys, expenses and other charges (excluding Attachment fees) under this Agreement, as incurred. Payment shall be made within thirty-five (35) days of the date of invoice and under the terms and conditions provided in Article IV, section 4.7, below.

4.7 Payment and Late Charges. The Licensee shall have thirty-five (35) days from the date of any invoice to object to same. The parties in good faith shall attempt to resolve any objection to the invoiced amount within thirty (30) days of Licensee's notice of dispute. If agreement cannot be reached, Licensee shall pay FPL the invoiced amount immediately upon acknowledgment that agreement cannot be reached or upon the termination of the thirty (30) day resolution period, whichever is earlier. Upon resolution of the objection to the invoiced amount, FPL shall refund any amount due Licensee with interest, calculated at 12% per annum. Failure to provide FPL with written notice of dispute within thirty-five (35) days of the date of invoice shall constitute approval by the Licensee of the statement or invoice. If payment is not mailed within thirty-five (35) days of the date of the statement or invoice, then a late payment charge may be assessed in the amount of one (1) percent of the amount due per month calculated on a daily basis or the highest amount then permitted by Florida law.

4.8 Effect of Non-Payment. Failure to pay any non-disputed invoice after ten (10) days written notice of non-payment to Licensee by FPL shall constitute a default going to the essence of this Agreement and shall entitle FPL to cancel this Agreement.

ARTICLE V - REMOVAL

- 5.1 Notice by Licensee. The Licensee, after prior written notice to FPL, may remove its Attachments from any distribution Pole or transmission Pole with distribution underbuilt and shall give FPL written notice, in the form of Exhibit C, of actual removal within fifteen (15) working days after removal. Licensee shall exercise care and take precautions to avoid damage to the FPL Facilities and to the attachments of others and shall immediately report any damage to FPL and to the owners of the damaged facilities. FPL, at Licensee's cost, shall be responsible for removal of Licensee's System from Transmission Towers or Poles without distribution underbuilt.
- 5.2 Immediate Removal. Upon notice that the use of an FPL Pole or Tower is forbidden or unauthorized by state, county, or municipal authorities or upon any final administrative or judicial decision that Licensee has no right to attach to any FPL Pole or Tower without consent of the real property owner, the FPL permit or consent covering the use of the FPL Pole or Tower shall immediately terminate and Licensee shall remove all of its cables, wires, and associated support hardware from the affected FPL Pole or Tower as required by FPL. Licensee shall hold harmless, defend and indemnify FPL against all liabilities arising from or associated with Licensee's failure to obtain the necessary permits, if any, from the owner of the real property or government authorities. The termination rights under this Agreement shall not be affected by this section.
- 5.3 Licensee's Expense. All removals of Licensee's System from FPL Poles or Towers shall be at the sole expense of the Licensee.
- 5.4 Abandonment. If FPL desires or at any time is required to abandon any Pole or Pole line, it shall give the Licensee notice in writing of its intent to do so at least thirty (30) days prior to the date of abandonment. If at the expiration of such period, or upon removal of FPL's Facilities, whichever occurs later, the Licensee shall not have removed all of its Attachments therefrom, such Pole(s) shall then become the property of the Licensee, and the Licensee shall: (i) indemnify and save harmless FPL from all obligation, liability, damages, costs, expenses or charges incurred thereafter arising from the presence or condition of such Pole(s), or any Attachment(s) thereon; and (ii) pay FPL a sum equal to the then "value in place", adjusted for the cost of removal and salvage, of such abandoned Pole(s) or, at FPL's discretion, shall pay such other equitable sum as may be agreed upon in writing between the parties.

ARTICLE VI - RESERVATION OF RIGHTS
LIMITATION OF LIABILITY AND INSURANCE

- 6.1 Reservation of Rights and Release by the Licensee. FPL reserves to itself, its successors and assigns, the right to maintain its Poles and Towers and to operate its Facilities thereon in such manner as will best enable it to fulfill its own service requirements and in accordance with the NESC and any applicable amendments, revisions or subsequent editions to said Code and such specifications particularly applying to FPL hereinbefore referred to. FPL shall not be liable to the Licensee or Licensee's customer for any interruption to service of Licensee or for interference with the operation of the cables, wires and appliances of the Licensee arising in any manner out of the use of FPL's Poles or Towers by the Licensee, FPL, or others. The Licensee hereby releases and waives all rights against FPL for such interruptions or interference.
- 6.2 No Consequential Damages. In no event shall either party be liable to the other for any indirect, special incidental or consequential damages, including lost profits, regardless of whether informed of the same.
- 6.3 Indemnification of FPL.
- a. Licensee's Sole Risk. Licensee shall exercise its privileges hereunder at its own sole risk and in consideration of this Agreement shall release, indemnify, protect, defend and save harmless FPL, its parent, subsidiaries, other affiliates and their respective officers, directors, agents and employees (FPL Entities) from and against any and all claims and demands whatsoever including court costs and reasonable attorney's fees by reason of damage to property and injury or death to persons, including payments made under any Workers' Compensation Law or under any plan for employees' disability and death benefits, which may arise out of or be caused, in whole or in part, by Licensee's acts or FPL's negligence resulting in connection with or by the erection, maintenance, presence, use, transfer or removal of Attachments or the proximity of the respective cables, wires, apparatuses and appliances of the parties on or in the vicinity of FPL Poles or the poles of any other person firm or corporation on which FPL maintains Attachments.
- b. Further Licensee Indemnification. Licensee shall further indemnify, defend and hold harmless FPL Entities from and against (a) all sales, excise or other taxes, if any, which may be assessed against FPL for Licensee's

Attachment to the FPL Pole, (b) any franchise, user fees, permit fees, or similar impositions which may be imposed on FPL or Licensee by local governments or third parties as a direct result of Licensee's Attachment, (c) all liabilities, cost or expenses incurred by FPL to the extent due to or arising out of the failure of Licensee to obtain all permits or consents from the owner of the real property or from government agencies which may be required for the installation of Licensee's Attachment and (d) any contractor delay claims caused by the failure of Licensee to remove its Attachment from the FPL Poles as set forth in the relocation schedule of the third party, including reasonable attorney's fees and court costs.

6.4 Insurance.

- a. Type. Licensee prior to exercise of its rights under this Agreement shall procure and maintain through the term of this Agreement insurance which shall be amended or endorsed to include FPL, its parent, subsidiaries and affiliates and their respective officers, directors and employees as Additional Named Insureds to protect them against any and all claims, demands, actions, judgments, cost, expenses and liabilities of every nature, including attorney fees, which may result directly or indirectly under the terms of the above indemnification. The limit applying to this Agreement shall equal the highest limit applicable to any other exposure covered under the policy. The policy(ies) shall be endorsed to be primary to any insurance maintained by FPL, its parent, subsidiaries or affiliates. As a minimum, the coverages shall include the following:
- i. Workers' Compensation Insurance for statutory obligations imposed by Workers' Compensation or Occupational Disease Laws, including, where applicable, the United States Longshoremen's and Harbor Workers' Act, the Federal Employers' Liability Act and Jones Act. Employers' Liability Insurance shall be provided with a limit of five hundred thousand dollars (\$500,000) per accident.
 - ii. Comprehensive General Liability Insurance, including Broad Form Contractual Liability, with the following minimum limits of liability; Bodily Injury Liability and Property Damage Liability - One million dollars (\$1,000,000) combined single limit and three million dollars (\$3,000,000) occurrence aggregate.
 - iii. Comprehensive Automobile Liability Insurance with the following limits of liability, which shall apply to all owned, non-owned, leased

and hired automobiles used by Licensee in the performance of the Work: Bodily Injury Liability and Property Damage Liability - one million dollars (\$1,000,000) per occurrence limit and three million dollars (\$3,000,000) aggregate.

- b. Duration. In the event that any policy furnished by Licensee provides for coverage on a "claims made" basis, the retroactive date of the policy shall be the same as the effective date of this Agreement. Furthermore, for all policies furnished on a "claims made basis," Licensee's providing of such coverage shall survive the termination of this Agreement until the expiration of the maximum statutory period of limitations in the State of Florida for actions based in contract or in tort; if coverage is on an "occurrence" basis, such insurance shall be maintained by Licensee during the entire term of this Agreement.
- c. Form. Licensee shall procure and maintain at its own expense, the above minimum insurance coverage and shall provide evidence of the minimum insurance coverage by providing an ACORD or other Certificate of Insurance on forms and with insurance companies acceptable to the Risk Management Department of Florida Power & Light Company, before any work under the contract begins.
- d. Self-Insurance. Notwithstanding the foregoing, Licensee may self-insure the above liability.

- 6.5 Contractor Indemnification. The Licensee further agrees to use reasonable efforts to include the following indemnification in all contracts with contractors hereinafter who perform construction or maintenance work on or around the subject Facilities:

"The Contractor hereby agrees to release, indemnify, defend, save and hold harmless _____

_____ and Florida Power & Light Company, its parent, subsidiaries, affiliates or their respective officers, directors, or employees, (hereinafter referred to as the "Company") and other owners of equipment attached to the Pole, from all claims, demands, liabilities and suits whether or not due to or caused by negligence of

_____ or FPL for bodily injuries or death to person(s) or damage to property resulting in connection with the performance of the described work by Contractor, its subcontractor, agents or employees. This indemnification shall extend up to but

shall not exceed the sum of one million dollars (\$1,000,000.00) for bodily injury or death of person(s) or property damage for anyone occurrence. In the event Contractor is insured for liability with limits in excess of one million dollars (\$1,000,000.00) for injuries to or death of person(s) or damage to property arising out of a single occurrence, Contractor's said obligation shall extend up to but shall not exceed the limits of that insurance."

- 6.6 Contractor Insurance. The Licensee agrees to require its Contractors to obtain insurance to cover the above indemnity and to designate FPL as an additional named insured and to endorse the policy to be primary to any insurance obtained by FPL, its parent, subsidiaries or affiliates. The Licensee further agrees to verify with its Contractors that such insurance is in full force and effect.

ARTICLE VII - MISCELLANEOUS PROVISIONS

- 7.1 Breach. If the Licensee fails to comply with any of the provisions of this Agreement or defaults in any of its obligations under this Agreement, including but not limited to safety, violation of the NESC or FPL requirements, and failure to pay, and fails within thirty (30) days after written notice from FPL (or immediately upon notice of a safety violation) to begin to correct and diligently pursue such correction of such default or non-compliance, FPL may at its option terminate this Agreement in whole or part.
- 7.2 Non-waiver. Failure to enforce or insist upon compliance with any of the terms or conditions of this Agreement shall not constitute a general waiver or relinquishment of any such terms or conditions, but the same shall be and remain at all times in full force and effect.
- 7.3 Term. Either party may terminate this Agreement at any time upon thirty (30) days written notice to the other party. Individual permits issued under this Agreement may automatically expire as provided in Exhibit B attached hereto.
- 7.4 Non-exclusive Right. Nothing in this Agreement shall be construed to confer on the Licensee an exclusive right to make Attachments to FPL's Poles in the area covered by this Agreement and any supplement thereto, and it is expressly understood that FPL has the unconditional right to permit any other person, firm or corporation to make Attachments to the same Poles, other than any poles abandoned by FPL and purchased by Licensee, in the area covered in this Agreement and supplements thereto.

- 7.5 No Property Right. No use, however extended, of FPL's Poles or Towers, under this Agreement, shall create or vest in the Licensee any ownership or property rights in said Poles, but the Licensee's rights therein shall be and remain a mere license. Nothing herein contained shall be construed to compel FPL to maintain any of said Poles or Towers for a period longer than demanded by FPL's own service requirements. FPL reserves the right to deny the licensing of any poles or towers to the Licensee if FPL determines such Attachment will interfere with the integrity of FPL's system or service requirements, including considerations of economy and safety.
- 7.6 Assignment. The Licensee shall not assign or transfer this Agreement without the prior written consent of the other party.
- 7.7 Notice under this Agreement. All notices, communications and deliveries required or permitted under this Agreement shall be in writing and shall be delivered personally, sent by facsimile transmission with facsimile transmitted confirmation of receipt, sent by overnight commercial air courier (such as Federal Express), or mailed, certified or registered, postage prepaid, return receipt requested, to the parties at the addresses or facsimile numbers hereinafter set forth:

To the Licensee:



With a copy to:

To FPL:

Thomas J. Kennedy, P.E.
Senior Analyst DRS/GO
Florida Power & Light Company
9250 W. Flagler Street
Miami, Florida 33174
Facsimile:(305) 228-5695

AND TO



PUBLIC VERSION

Robert A. Christman,
Reliability Leader
Florida Power & Light Company
700 Universe Boulevard
Juno Beach, Florida 33408

- 7.8 Severability. Should any part of any paragraph or provision of this Agreement be determined by a court of competent jurisdiction to be illegal or in conflict with any applicable law, the validity of the remaining paragraph or provisions shall not be impaired.
- 7.9 Applicable Law. The validity, interpretation and enforcement of this Attachment Agreement shall be governed by the laws of Florida without regard to conflict of law applications.

IN WITNESS WHEREOF, the Parties have caused these presents to be duly executed the day and year first above written.

LICENSOR:

FLORIDA POWER & LIGHT COMPANY

By: David T. Bromley

Print Name: DAVID T. BROMLEY

Title: MGR - DISTRIBUTION REGULATORY

LICENSEE:

By: [REDACTED]

Attest: [REDACTED] (Seal)

Assistant Secretary

Exhibit A

REDACTED

CONFIDENTIAL NON-PUBLIC
TRANSMISSION INFORMATION.
BEING TREATED IN ACCORDANCE
WITH FERC STANDARDS
OF CONDUCT DUE TO THE FACT
IT CONTAINS CRITICAL ENERGY
INFRASTRUCTURE INFORMATION.

A

EXHIBIT B

ATTACHMENT APPLICATION AND PERMIT

Corporation / Partnership

TYPE OF APPLICATION (Check One) _____, 20 ____
Date submitted by Licensee.

☐ Make-Ready _____, 20 ____
Date received by FPL

☐ Non Make-Ready

I. APPLICATION

In accordance with the terms of Agreement dated _____, 20____, application is hereby made for permit to make attachment to the following poles.

Location City: _____ County: _____ Florida
Pole Numbers _____ Pole Locations (Indicate which poles require Make-Ready work) _____

I certify that the attachments shall be in compliance with the latest edition of the National Electric Safety Code and FPL requirements.

Licensee: _____
By: _____
NAME OF REGISTERED (State of Florida) ENGINEER (Print)

SIGNATURE

TITLE

Engineer's Seal

II. PERMIT

Permit Granted _____, 20____ Estimated Make-Ready Cost \$ _____ payable in advance.
(Subject to your approval of Make-Ready Cost)

Permit Denied _____, 20____

FLORIDA POWER & LIGHT COMPANY

By: _____
Title: _____

Permit Number _____
Total Previous Poles _____
Poles this Permit _____
New Total Poles _____

III. GENERAL CONDITIONS

1. A "Make-Ready" permit will automatically expire if attachments are not made and completed within 60 days after notification in writing to Licensee by FPL that Make-Ready work has been completed.
2. A "Non Make-Ready" permit will automatically expire if attachments are not made and completed within 60 days after date of approval and is subject to field conditions and facilities on each pole at the time attachment is made. Licensee shall be required to bear any and all "Make-Ready" cost necessitated by previous attachments.
3. If permit is granted under Section II above, this permit automatically expires, as to the affected poles 30 days after written notice to Licensee that FPL intends to abandon a particular pole line. Within 30 days after such notice, Licensee shall either remove its Attachments from those poles or obtain all necessary permits and easements and, at the discretion of FPL, arrange to purchase such poles from FPL.

(OVER)

Attachment Criteria

NON JOINT USE POLE

(no telephone)

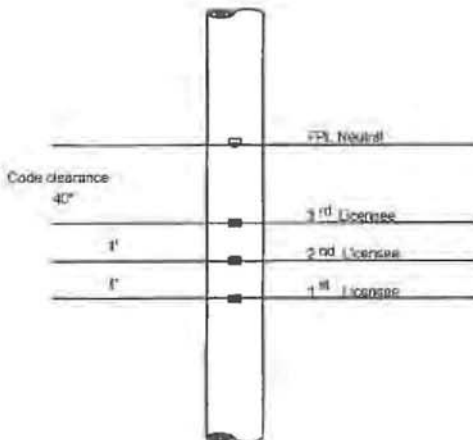


Fig. 1

1. The 1st Licensee attachment will be located a minimum of 40" below FPL's lowest attachment and at the lowest point possible while meeting NESC ground clearances.
2. All additional Licensee attachments will be located 1' above the lowest existing Licensee attachment.

JOINT USE POLE

(power & telephone)

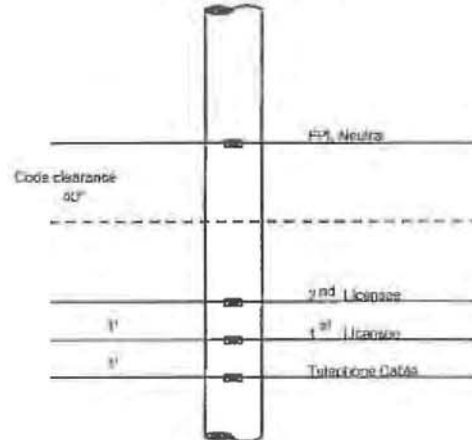


Fig. 2

1. The 1st Licensee attachment will be located 1' above Telephone's highest attachment.
2. The 2nd Licensee attachment will be located 1' above the 1st Licensee attachment.

NOTE: No Licensee attachment will intrude on the 40" NESC code clearance space.

Space Allocation

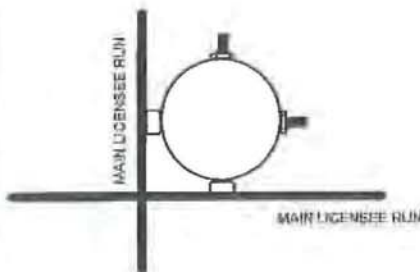


Fig. 3

POLE ATTACHMENT LOCATION

1. All main Licensee attachments shall be located either on the same side of the pole as FPL's neutral or on the adjacent side.
2. No main line Licensee attachments shall be located on the side of the pole opposite FPL's neutral.
3. Only 2 sides of the pole, FPL's neutral and one adjacent side, shall be occupied on any given pole.

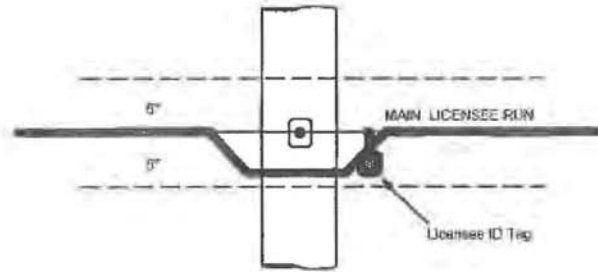


Fig. 4

LICENSEE IDENTIFICATION TAG

1. Each separate Licensee attachment shall be identified in accordance with the FUCO's Foreign Attachment Guidelines specifications.
2. Each Licensee shall register its unique ID tag with the FUCO's Joint Use Subcommittee.
3. A Licensee ID Tag will be installed at every 1st, 5th and last mainline pole attachment.
4. Licensee ID Tag can be attached either to the cable or the attachment hardware.

EXHIBIT C NOTIFICATION OF ATTACHMENT/REMOVAL

Corporation/Partnership Name

Attachment ☐Removal ☐

In accordance with the terms of License Agreement dated _____, 20____, please (add to) or (delete from) your records the following poles to which (attachments) or (removals) were made during this calendar month.

Location

City _____, County _____, Florida

Pole Numbers	Date Added	Date Deleted	Permit Number	Pole Locations

Total Attachment this Notice:

Added _____

Removed _____

Total Previous Attachments _____

Total Attachments To Date _____

Licensee: _____

By: _____

Name (Print)

Signature_____
Title

Florida Power & Light Company

By: _____

Title: _____

Date Recieved _____, 20____

Notice Number: _____

Reply Exhibit 5